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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,574	12/08/2003	Kenneth J. Juncker	AG-118US	3069
24314	7590	02/07/2006	EXAMINER	
JANSSON, SHUPE, MUNGER & ANTARAMIAN, LTD 245 MAIN STREET RACINE, WI 53403			NEWVILLE, TONI E	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 02/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/730,574	Applicant(s) JUNCKER, KENNETH J.	
	Examiner Toni Newville	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-22, 34 and 35 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-22 is/are allowed.
- 6) ☒ Claim(s) 11-17, 34 and 35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The abstract of the disclosure is objected to because of the use of the phrase "is disclosed" in line 1. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 103

3. Claims 11-17, 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindblom, US 5373902, as previously cited, in view of Juncker et. al., US 2002/0130552.

Regarding claim 11, Lindblom, as noted in previous office action, discloses a soil stabilizer comprising:

- A stabilizer frame (12);
- A rotor (14) rotatably mounted with respect to the stabilizer frame (12), the rotor (14) movable with respect to the ground surface;
- A rotatable axle (shown in Figure 1) connected with respect to the stabilizer frame and adapted for moving the stabilizer frame (12) and rotor across the ground surface.

As noted in previous office action, Lindblom fails to disclose that the soil stabilizer is supported and moved by a track apparatus. However, Juncker discloses a soil stabilizer moved and supported by a track apparatus. As stated in the previous office action, it would have been obvious to one having ordinary skill in the art to provide the soil stabilizer of the Lindblom patent with the track apparatus of the Juncker patent in order to reduce the ground pressure and increase the traction of Lindblom's soil stabilizer.

Juncker discloses a track apparatus operatively mounted to a rotatable axle (52), the track apparatus providing for movement of the stabilizer frame and rotor across the ground surface, the track apparatus including:

A continuous flexible track (15) having an upper length and a ground-engaging lower length and including an inner surface (Figure 4);

An axle wheel (12) secured to the rotatable axle (52), the axle wheel (12) engaging the inner surface of the flexible track (15) along the upper length to drive the flexible track (15) in response to rotation of the axle (52);

A plurality of wheels (137, 101, 107, 117) engaging the inner surface of the track (15), including leading (137) and trailing (117) idler wheels;

Bogie wheels (101, 107) engaging only a middle portion of the lower length of the track (15);

An apparatus frame (56) for mounting the axle wheel (12), the apparatus frame (56) being of a uni-body construction that includes a plurality of fixed-mounts in fixed relative positions, each fixed-mount defining an axis, (Figure 4) wherein:

The axle wheel (12) is rotatably mounted to one of the fixed-mounts and turns on the respective fixed-mount axis (52);

One of the idler wheels (117) is rotatably mounted to one of the fixed-mounts and turns on the respective fixed-mount axis;

The bogie wheels (101, 107) are rotatably mounted to one of the fixed-mounts and turn on the respective fixed-mount axis, and

An idler-mounting bracket (142) is pivotably mounted (at 97) to another of the fixed-mounts and pivots on the respective fixed-mount axis, the bracket (142) having an idler-mount defining an idler-mount axis at which the other idler wheel (137) is rotatably mounted in variable positions with respect to the apparatus frame (56).

Regarding claim 12, the apparatus frame defines a lateral recess receiving the axle wheel (Figures 1 and 2).

Regarding claim 13, the apparatus frame includes a spindle hub for rotatably receiving the rotatable axle (Figure 3).

Regarding claim 14, the fixed-mounts inherently comprise apertures for receiving axles therethrough (Figure 4).

Regarding claim 15, the trailing idler wheel (117) is rotatably mounted to one of the fixed-mounts and the leading idler wheel (137) is rotatably mounted (at 97) to the idler-mount (Figure 4).

Regarding claim 16, the trailing idler wheel (117) comprises a pair of axially-aligned wheels (Figure 3) and the leading idler wheel (137) comprises a pair of axially-aligned wheels (Figure 3).

Regarding claim 17, the apparatus further comprises a leading idler assembly (97, 142, 137) attached to the apparatus frame (56) at one of the fixed mounts, the leading idler assembly (97, 142, 137) including the leading idler wheel (137) engaging the flexible track (15).

Regarding claim 34, Lindblom, as noted in previous office action, discloses a soil stabilizer comprising:

- A stabilizer frame (12);

Art Unit: 3671

- A rotor (14) being adapted for rotatably engaging a depth of the ground surface
- A rotatable axle (shown in Figure 1) connected with respect to the stabilizer frame and adapted for moving the stabilizer frame (12) and rotor across the ground surface.

As noted in previous office action, Lindblom fails to disclose that the soil stabilizer is supported and moved by a track apparatus. However, Juncker discloses a soil stabilizer moved and supported by a track apparatus. As stated in the previous office action, it would have been obvious to one having ordinary skill in the art to provide the soil stabilizer of the Lindblom patent with the track apparatus of the Juncker patent in order to reduce the ground pressure and increase the traction of Lindblom's soil stabilizer.

Juncker discloses a track apparatus operatively mounted to a rotatable axle (52), the track apparatus providing for movement of the stabilizer frame and rotor across the ground surface, the track apparatus including:

A continuous flexible track (15) having an upper length and a ground-engaging lower length and including an inner surface (Figure 4);

An axle wheel (12) secured to the rotatable axle (52), the axle wheel (12) engaging the inner surface of the flexible track (15) along the upper length to drive the flexible track (15) in response to rotation of the axle (52);

A plurality of wheels (137, 101, 107, 117) engaging the inner surface of the track (15), including leading (137) and trailing (117) idler wheels;

Bogie wheels (101, 107) engaging only a middle portion of the lower length of the track (15);

An apparatus frame (56) for mounting the axle wheel (12), the apparatus frame (56) being of a uni-body construction that includes a plurality of fixed-mounts in fixed relative positions, each fixed-mount defining an axis, (Figure 4) wherein:

The axle wheel (12) is rotatably mounted to one of the fixed-mounts and turns on the respective fixed-mount axis (52);

One of the idler wheels (117) is rotatably mounted to one of the fixed-mounts and turns on the respective fixed-mount axis;

The bogie wheels (101, 107) are rotatably mounted to one of the fixed-mounts and turn on the respective fixed-mount axis, and

An idler-mounting bracket (142) is pivotably mounted (at 97) to another of the fixed-mounts and pivots on the respective fixed-mount axis, the bracket (142) having an idler-mount defining an idler-mount axis at which the other idler wheel (137) is rotatably mounted in variable positions with respect to the apparatus frame (56).

Regarding claim 35, when the soil stabilizer comprises a non-powered rotatably trailing axle, the improvement further comprises mounting a non-powered trailing track (Juncker; 15) apparatus to the trailing axle, whereby a rear portion of the soil stabilizer is provided with improved stability.

Allowable Subject Matter

4. Claims 18-22 are allowed.

Response to Arguments

5. Applicant's arguments filed 11/22/2005 have been fully considered but they are not persuasive.

The applicant has provided the following arguments in response to the examiner's office action dated 8/22/2005:

Regarding claims 11-17, there is no motivation to combine Lindblom ('902) in view of Juncker et al ('552), since Juncker does not teach a soil stabilizer and does not teach "reducing of the ground pressure" or "increasing of the traction of" a soil stabilizer. Newly added claims 34 and 35 should be allowable for the same reasons.

Regarding the applicant's argument that Juncker does not teach "reducing of the ground pressure" or "increasing of the traction of" a soil stabilizer, the examiner contents that Juncker does disclose such motivations, see paragraph 4 lines 5-7 ("it is highly desirable to develop a track apparatus for vehicles which disburses vehicle weight over a larger area so as to reduce the degree of ground compaction") and lines 8-10 ("a

larger ground-surface engagement area also serves to prevent vehicles from becoming bogged down in mud or other soft ground surfaces”).

Regarding the applicant's argument that Juncker does not disclose a soil stabilizer, Juncker discloses a soil-engaging track apparatus for use on “an agricultural vehicle...a construction vehicle or other work vehicle” (paragraph 35 lines 4-7). A soil stabilizer, being used with a construction vehicle, is therefore within the range of suggested uses of the Juncker reference.

Given the motivation in Juncker to use a track apparatus and the suggestion in Juncker of its use on a construction vehicle, the examiner feels a *prima facie* case of obviousness has been presented. The rejection of claims 11-17 as presented in the 8/22/2005 action has been repeated, and new claims 34 and 35 are similarly rejected.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toni Newville whose telephone number is (571) 272 - 1548. The examiner can normally be reached on Monday - Friday 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on (571) 272-6998. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Toni Newville
January 23, 2006



THOMAS B. WILL
Supervisory Patent Examiner
Group 3600